UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

BRIAN K. PHILLIPS,)	
)	
Petitioner,)	
)	
V.)	No. 4:07CV1893 JCH
)	
UNITED STATES MARSHAL)	
SERVICE,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court on petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 and on petitioner's motion for temporary restraining order.

In his petition, petitioner claims that he is being detained illegally in the St. Louis Justice Center pursuant to an order of the United States Marshal's Service. Petitioner claims that because he has not been detained in a federal facility he has been deprived of good time credits that he should have been entitled to. Petitioner also states that on April 24, 2007, he was given a nine-year sentence of imprisonment by a Missouri court. Petitioner seeks an order directing the Marshal's Service to release him from custody.

At the outset, the Court notes that the petition is deficient. Under 28 U.S.C. § 2242:

Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf.

It shall allege the facts concerning the applicant's commitment or detention, the name of the person who has custody over him and by virtue of what claim or authority, if known.

The instant petition is not verified as required by § 2242. As a result, the Court will order petitioner to file an amended petition.

To determine whether preliminary injunctive relief is warranted, the Court must balance threat of irreparable harm to movant, the potential harm to nonmoving party should injunction issue, the likelihood of success on merits, and the public interest. Dataphase Sys. v. CL Sys., 640 F.2d 109, 113-14 (8th Cir. 1981) (en banc). Because petitioner has just begun to serve a nine-year prison sentence, he has not shown how his alleged detention by the Marshal's Service will cause irreparable harm. Additionally, petitioner has not established that he is likely to succeed on the merits of the case. As a result, the motion for TRO will be denied.

Accordingly,

IT IS HEREBY ORDERED that petitioner shall file an amended petition that complies with federal habeas statutes within 30 days of the date of this Order.

IT IS FURTHER ORDERED that if petitioner fails to timely file an amended petition, this case will be dismissed.

IT IS FURTHER ORDERED that petitioner's motion for temporary restraining order [#4] is **DENIED**.

Dated this 27th Day of November, 2007.

/s/ Jean C. Hamilton
JEAN C. HAMILTON
UNITED STATES DISTRICT JUDGE